

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP

THE MCPHERSON BUILDING

901 FIFTEENTH STREET, N.W., SUITE 1100  
WASHINGTON, D.C. 20005-2327

(202) 682-3500

FAX (202) 682-3580

425 PARK AVENUE  
NEW YORK, NY 10022-3598

1999 AVENUE OF THE STARS  
LOS ANGELES, CA 90067-6048

SHANGHAI CENTRE  
SUITE 405  
1376 NANJING XI LU  
PEOPLE'S REPUBLIC OF CHINA

PHILLIPS POINT, WEST TOWER  
SUITE 1002  
777 S. FLAGLER DRIVE  
WEST PALM BEACH, FL 33401

NINE QUEEN'S ROAD CENTRAL  
HONG KONG

DOCKET FILE COPY ORIGINAL

WRITER'S DIRECT DIAL NUMBER  
(202) 682-3501

January 24, 2001

RECEIVED

JAN 24 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: MM Docket No. 01-6,  
RM-10009  
Steubenville, Ohio and  
Burgettstown, Pennsylvania


Dear Ms. Salas:

On behalf of Keymarket Licenses, LLC, we are herewith filing an original and four (4) copies of its "Comments" of the above-referenced Docket to reallocate Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania, and modify the license of Radio Station WOGH(FM) accordingly.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By:   
Allan G. Moskowitz

No. of Copies rec'd 074  
L A B C D E

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

**RECEIVED**

**JAN 24 2001**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In The Matter of )  
 )  
Amendment of Section 73.202(b) ) MM Docket No. 01-6  
Table of Allotments ) RM-10009  
FM Broadcast Stations )  
 )  
(Steubenville, Ohio and )  
Burgettstown, Pennsylvania) )  
 )  
TO: Chief, Allocations Branch )

**COMMENTS**

Keymarket Licenses, LLC ("Keymarket"), licensee of Radio Station WOGH(FM), Steubenville, Ohio, by its counsel and pursuant to Section 1.420(i) of the Commission's Rules, hereby submits its "Comments" in response to the "Notice of Proposed Rulemaking" ("NPRM") released January 12, 2001 in the above-referenced docket. The NPRM proposed, at Keymarket's request, that Section 73.202(b) of the Commission's Rules be amended to reallocate Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania, and the modification of Radio Station WOGH(FM)'s license accordingly. In support thereof the following respectfully shown:

**Public Interest Benefits**

1. Keymarket's proposed reallocation scheme would serve the public interest and the Commission's allotment priorities by proposing a new first service to Burgettstown, Pennsylvania, located in Washington County, approximately twenty (20) miles east of Pittsburgh, Pennsylvania. Burgettstown, with a 1990 U.S. Census population of 1,634, was established in the mid-19th century and was incorporated in 1881. The city is governed by a

mayor and five (5) member city council. Burgettstown provides police, fire and sewage services to the community and has its own public library, public school system, a Catholic high school, commercial establishments, gas stations and its own post office. Burgettstown has social and charitable organizations, five (5) separate churches and major industrial employers.

Burgettstown, therefore has the social, economic and governmental indicia to qualify as a community for allotment purposes. FM Channel Assignments (Biltmore Forest, North Carolina), 63 RR2d. 251(1987).<sup>1</sup> However, no AM or FM stations are currently licensed to Burgettstown, either commercial or non-commercial. Consequently, the reallocation of Channel 278B will constitute the first local service to a community which presently has no service.

2. In contrast, full service commercial Radio Station WDIG(AM) and WSTV(AM) will continue to provide local service to Steubenville, Ohio, as well as non-commercial FM station WBJV(FM). Consequently, the proposed reallocation of Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania and the modification of WOGH(FM)'s license will not deprive Steubenville of its only local service.

3. The proposed reallocation complies with the Commission's Rules and would serve the Commission's allotment priorities and public interest. In Amendment Of The Commission's Rules Regarding Modification of FM and TV Authorizations To Specify a New Community of License, 4 FCC Rcd. 4870 (1989), recons granted in part, 5 FCC Rcd. 7094 (1990) (hereinafter, "Community of License"), the Commission stated the proposed channel must be mutually exclusive with the existing channel and the new community must be preferred over the existing community under the Commission's allotment priorities. Since we are proposing the reallocation

---

<sup>1</sup> Keymarket respectfully requests that the Commission incorporate by reference the "Petition for Rulemaking" filed by Keymarket to initiate this docket.

of the Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania, the instant proposal is mutually exclusive with the current use of Channel 278B.

4. Further, the new community, Burgettstown, will obtain a first local service, whereas Steubenville, Ohio will retain existing service from two commercial AM stations and one non-commercial FM station. Under the Commission's allotment criteria, first local service is preferred over additional local services. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d. 88 (1982).

5. Petitioner hereby states that should the Commission grant the instant proposal to reallocate Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania and modify Radio Station WOGH(FM)'s license accordingly, Petitioner will file an application for the new facilities and, when granted, will implement that application expeditiously.

6. In conclusion, Commission grant of the instant proposal will provide benefits to the listening public. Burgettstown, Pennsylvania, a long-established community, will gain its first local aural outlet while Steubenville, Ohio will retain two (2) full-service AM stations as well as a non-commercial FM station. Consequently, Keymarket submits that its instant proposal should be adopted.

WHEREFORE, for the foregoing reasons, Keymarket Licenses, LLC respectfully requests that the Commission amend its Table of Allotments to reallocate Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania and to modify Radio Station WOGH(FM)'s license accordingly.

Respectfully submitted,

Keymarket Licenses, LLC

By:   
Allan G. Moskowitz  
Its Attorney

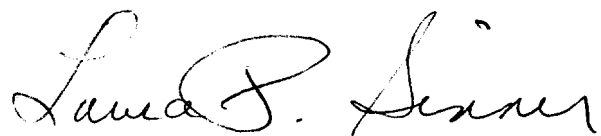
KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP  
901 15th Street, N.W., Suite 1100  
Washington, D.C. 20005  
(202) 682-3500

January 24, 2001

**CERTIFICATE OF SERVICE**

I, Laura P. Sinner, of the law firm Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 24th day of January, 2001, a copy of the foregoing "Comments" was hand-delivered to the following:

Kathleen Scheuerle  
Mass Media Bureau  
Federal Communications Commission  
445 12th Street, SW  
Room 3-A247  
Washington, DC 20554

A handwritten signature in black ink, reading "Laura P. Sinner", written over a horizontal line.

Laura P. Sinner